

## Administrative Order



**Administrative Order No.: 10-10**

**Title:** Duties and responsibilities of county departments for compliance with the Americans with disabilities act (ADA)

**Ordered:** 4/22/2003

**Effective:** 5/2/2003

**AUTHORITY:**

Section 4.02 of the Miami-Dade County Home Rule Amendment and Charter.

**POLICY:**

It is the policy of Miami-Dade County to ensure that all Miami-Dade County departments are in compliance with the Americans with Disabilities Act (ADA). The ADA is a federal law that prohibits public entities from discriminating on the basis of disability by providing comprehensive civil rights protections to individuals with disabilities in the areas of employment, state and local government services, telecommunications and public accommodations. This Administrative Order establishes the duties and responsibilities of Miami-Dade County departments, and their respective ADA Coordinators and designated staff, in order to ensure compliance.

**EXCEPTIONS:**

Nothing in this administrative order shall be construed as limiting the authority of the Miami-Dade Employee Relations Department, under the authority of section 4.05(b) of the Miami-Dade County Charter, in its administration and oversight of countywide programs to ensure departmental compliance with Title I of the Americans with Disabilities Act, the employment provisions.

**ROLES AND RESPONSIBILITIES:**

**A. On an annual basis, each department director shall appoint an ADA Coordinator and notify the Office of ADA Coordination of the assignment. The duties of the departmental ADA Coordinator shall include:**

1. Ensuring that departmental staff and the general public know how to contact the department's ADA Coordinator. Contact information should be included on the departmental web site, in the County directory, and in any departmental directories. It should also be available through any telephone information services that the department provides.
2. Coordinating the departmental ADA grievance process in accordance with the attached Miami-Dade County grievance policy, see Attachment Three. This

involves receiving and processing complaints from the public that allege that the department is not complying with the ADA. All employment discrimination complaints are to be referred to the County's Office of Fair Employment Practices. In all other cases, the appropriate departmental staff should review the complaint and prepare a written response. The departmental ADA Coordinator must ensure that the County Office of ADA Coordination reviews all departmental responses to complaints before they are sent.

3. Attending and scheduling other appropriate staff for mandatory attendance at ADA Coordinator meetings and training sessions.
4. Serving as a departmental resource for ADA information.
5. Assessing and identifying the need for ADA compliance and awareness training within the department, and coordinating the necessary training for departmental personnel with the Office of ADA Coordination.
6. Serving as a departmental liaison for the Commission on Disability Issues (CODI). This involves:
  - Identifying appropriate departmental staff to respond to recommendations or requests for information from CODI, and following up to ensure that a proper response is made by memo, report, or presentation.
  - Identifying departmental issues to be placed on the CODI agenda for discussion or official opinion. This would include issues and proposals that would be expected to have an impact on people with disabilities that is different than that on the general population.
7. Promoting the inclusion of people with disabilities in all departmental programs and services.

**B. Each department director is responsible for the following areas of ADA compliance, which may be assigned to the department's ADA Coordinator or to other departmental staff. The department shall annually notify the Office of ADA Coordination of who is assigned to each area of compliance and shall update the Office of ADA Coordination whenever assignments are changed:**

1. **Coordinating sign language interpreter services.** This involves ensuring that all appropriate departmental staff is aware of:
  - It is the County's policy and legal obligation to provide sign language interpreters as needed to provide effective communication with members of the public, job applicants, and employees who are deaf.
  - The process for obtaining sign language interpreter services.

- The need to include projected costs for interpreters in annual budget requests.

**2. Providing departmental materials in an accessible format for persons who are blind or who have low vision.**

This involves providing information in Braille as appropriate, which can be prepared through the County's Office of ADA Coordination, and providing information in large type or in a computer text file, which can be prepared by the department. It may also involve providing information on audiotape prepared by the department.

**3. Ensuring that all notices of public meetings conducted by the department contain the following statement:**

"If you need a sign language interpreter or materials in accessible format for this event please call \_\_\_\_\_ (this should include the name and telephone number of the responsible departmental person) at least five days in advance."

When meeting notices do not contain the above statement or are not sent out in time for appropriate responses, sign language interpreters and materials in accessible format such as audio tape, Braille and large type must be provided by the department unless the department knows that no persons needing a sign language interpreter or materials in accessible format will be attending.

**4. Ensuring that the appropriate statements and information regarding the ADA and persons with disabilities are included in the department's written communications and publications. The Office of ADA Coordination should be contacted for this information.**

**5. Coordinating TTY (text telephone communication device for the deaf) services. This involves:**

- Assessing the need for the department to provide TTY equipment. TTY equipment should be provided in the following cases: when a department receives frequent Florida Relay System (FRS) calls or requests for TTY services; when privacy is important; when outgoing calls are necessary for program participation; or when the department is required by Chapter 11 of the Florida Building Code to provide TTY equipment.
- Providing ordering information or placing orders for appropriate TTY equipment.
- Maintaining a list of departmental TTYs.

- Ensuring that appropriate departmental staff members are trained in the use of TTYs.
- Ensuring that TTY numbers are listed on business cards, in publications with other phone numbers, on departmental web sites, with Team Metro and in the TTY directories maintained by the County and Bell South.

**6. Ensuring that all departmental broadcast and video production complies with the following captioning policy:**

- Each department shall be responsible for providing access to videos that it uses for employee training. The preferred method is to have closed captioning on the tapes that are used regularly for training, and video monitors capable of displaying the closed captions. If the department can make arrangements to obtain a captioned version of tape in the time between when it would know of a need for captioning and the actual training, then the department may choose to wait until a need arises before obtaining a captioned version of the tape.
- Each department shall be responsible for responding to individual requests for captioning of programs that it broadcasts to, or otherwise makes available to, the public.
- In conjunction with the Department of Communications, each department that produces videos shall develop a process and ensure access to a contract for providing real time and postproduction captioning as appropriate.
- In the case of hurricane and other emergency related broadcasts and videos, the Department of Communications or the responsible department shall:
  - a) Caption hurricane and other emergency related announcements and programs including hurricane preparedness, shelter information, special needs registry, evacuation, STS and other transportation policy during emergencies, etc.
  - b) Include a statement in all hurricane or other emergency related public service announcements requesting that the station provide captioning.
  - c) If it is not possible to provide real time captioning when emergency information is broadcast, provide scrolled messages with essential emergency information and, if possible, provide sign language interpreters.
- Each department shall attempt to secure additional outside resources to

expand the number of programs to be captioned.

- 7. Ensuring that all departmental displays including exhibits, information booths and information counters provide program access for persons with disabilities including persons who are deaf, persons who are blind, persons who use wheelchairs and persons with developmental disabilities. For guidelines on accessible displays, see Attachment One.**
- 8. Ensuring that any special events sponsored by the department are fully accessible to people with disabilities by:**
  - Making sure that any restroom facilities available to event participants are accessible. This includes portable toilets, not less than one or five percent, whichever is greater, of which must be a contract model that the County has certified as ADA compliant. The number of portable toilets required to be accessible is stated both in the ADA and the Florida Accessibility Code. The Miami-Dade County contract for portable toilets prohibits payment for non-compliant configurations.
  - Making sure that there is accessible parking and an accessible route to spectator areas, stages and all goods and services provided at the event.
  - Making sure that, where seating is provided, there is accessible seating in the spectator area and that seating configurations are approved by the State of Florida as required. The approval process may take several months.
  - Making sure that stages are accessible by ramp or lift.
  - Making sure that plans for any construction have been approved by the County's Office of ADA Coordination, in addition to any other required agencies or County departments.
  - Making sure that accessible communication is provided as described above.
  - Making sure that all signs and structures comply with the ADA Accessibility Guidelines specifications relating to protruding objects so that people who are blind will not be injured.
- 9. Ensuring that persons with disabilities accompanied by service animals are granted full access to all departmental facilities which are open to the public regardless of whether pets are allowed in those facilities. For guidelines regarding service animals, see Attachment Two.**
- 10. Setting departmental priorities for removal of architectural barriers in**

**buildings and facilities to ensure access to all County programs.**

Departments whose facilities are maintained through General Services Administration are included in the barrier removal program of the Office of ADA Coordination. All other departments must have their own plans to remove architectural barriers to provide access to all programs and services. Priorities should be set with the involvement of the department, the Office of ADA Coordination and facility users who have disabilities and/or the Commission on Disability Issues. Progress is tracked through the annual Barrier Removal Report, which the County Manager submits to the Board of County Commissioners.

**11. Compiling information for the annual Barrier Removal Report.**

This involves completing spreadsheets provided by the Office of ADA Coordination to identify completed barrier removal projects, projects underway, funded projects not yet begun and unfunded needs. Note: The Office of ADA Coordination provides the spreadsheets, the departments are responsible for providing the information regarding their activities, though it is often difficult to get them to do so, and the Office of ADA Coordination combines the information and prepares the final report for the County Manager to present to the Commission.

**12. Ensuring that any newly constructed, altered or leased facilities comply with the accessibility requirements of the ADA and the laws of Florida.**

This involves:

- Providing plans to the County's Office of ADA Coordination for review.
- Requesting the assistance of the Commission on Disability Issues for major projects and projects that will require a waiver under the Florida Building Code. (For instance, projects where not every level of seating will be accessible.)
- Following up to make certain that recommended changes are carefully considered and required changes are incorporated in the plans.
- Following up to make certain that slopes and cross slopes of ramps, walks and parking spaces, as well as door pressures, are properly measured and that the project otherwise complies with the plans before acceptance of the completed work.

**13. Ensuring that plans for all new construction and alterations to county-owned or operated facilities and facilities on County property are provided to the Office of ADA Coordination for review and approval at the 50% and 100% design stages and ensure that the Office of ADA Coordination is given the**

**opportunity to:**

- Make critical inspections such as inspection of forms prior to pouring of concrete ramps.
- Participate in the punch list development and in a final inspection prior to the acceptance of the project from the contractor.

It is the department's responsibility to comply with the ADA requirements for construction and alterations. If the department has not agreed to resolve, prior to acceptance of the project from the contractor, all items that are identified by ADA Coordination inspections as not clearly ADA-compliant, then the Office of ADA Coordination shall provide a list of those items directly to the County Manager with a copy to the responsible department head.

- 14. Ensuring, by contract language, that any contractors providing programs or services on behalf of the department do so in a manner that complies with the Title II requirements of the ADA.** NOTE: It is the department's responsibility, to review contracts for ADA and other compliance. The ADA Office is a resource, and does review contracts on request.

Private enterprise is covered by Title III of the ADA, and not by Title II, which applies to state and local government. When the contractor provides services on behalf of the County, the County is required to ensure, by contract, that the services will be provided in a manner that complies with Title II. Without that contractual agreement, the provider is only legally obligated to comply with the lesser requirements of Title III, and the County can be held liable for non-compliance with Title II.

- 15. Ensuring, as required by the ADA, that the department does not provide funding or other substantial benefits to entities that are not in compliance with their obligations under the ADA.**

A private entity is obligated to comply with the requirements of Title III of the ADA. If that entity receives federal funds, it would also be required to meet the Section 504 requirements of the Rehabilitation Act, which are very similar to the ADA Title II requirements and include provisions for program access. Note: The following indicates how this is accomplished. The County requires assurances of non-discrimination by affidavit. Agencies that have been found to be non-compliant by a court or enforcement agency and have not corrected the areas of non-compliance are ineligible for County funding.\_\_

- 16. Reviewing new and proposed programs, policies and procedures to ensure that they appropriately address the needs of people with disabilities and that they are in full compliance with the requirements of the ADA.**

**17. Reviewing existing programs, policies and procedures for ADA compliance.**

Pursuant to Title II of the ADA, state and local governments are required to conduct a “self evaluation” including the review of all policies and procedures for compliance with the ADA. This is an ongoing obligation that should be regularly updated. NOTE: When the ADA first went into effect, the Office of ADA Coordination prepared forms and training and otherwise assisted departments in performing the ADA required self evaluation of all programs and policies. Follow up meetings were held with departments regarding changes that had been identified as needed. Since then, we have worked with several large departments in reviews of their policies and procedures, and we are currently meeting with the Employee Relations Department. We cannot be responsible for all departments, but we can train individuals from departments and serve as a resource to them.\_\_

**18. Ensuring that any departmental proposals going before the Board of County Commissioners have been reviewed, by the department, for ADA compliance and, when appropriate, reviewed by the Office of ADA Coordination and the Commission on Disability Issues.**

The accompanying memorandum from the County Manager to the Board must state that the item has been reviewed for ADA compliance and must state whether the Office of ADA Coordination or the Commission on Disability Issues were involved in the review. NOTE: the department must assign a person to review all Commission items for ADA compliance, must indicate that the item has been reviewed and must state whether CODI or the ADA Office were involved in the review. Departments are sure to realize that items critical to persons with disabilities or to ADA compliance are likely to be red flagged if the department has not sought assistance with the review.

**19. Assisting the County Attorney’s Office and the Office of ADA Coordination in addressing ADA lawsuits.**

While it is hoped that proper fulfillment of the above responsibilities will avoid lawsuits, there is no guarantee. In the event of a lawsuit, departments must provide all information and assistance needed to determine the County’s response to the lawsuit.

**C. The Office of ADA Coordination will provide guidance and assistance to County Departments, their administration, their ADA Coordinators and other appropriate staff, regarding the requirements of the ADA and state law as well as other issues related to accessibility and disability issues and shall report to the County Manager any action, or lack of action on the part of County departments that places the County out of compliance with the ADA.**



This Administrative Order is hereby submitted to the Board of County Commissioners of Miami-Dade County, Florida.

Steve Shiver  
County Manager

### **Attachment One Accessible Display Guidelines**

- Ideally: Any display with audio information should have the same information readily available in writing. Sign language interpreters should be available where any extensive or complex verbal communication is anticipated.

Alternatively: If the display is advertised, the advertisement could include a notice that text information and sign language interpreters will be available upon request five days in advance. At the display area, a notice could be posted indicating that text information can be sent upon request and, in the event that the display involves extensive or complex verbal communication, that an appointment can be arranged with a sign language interpreter at a later time.

- Ideally: Any display containing text, photographs or illustrations used to provide information should have the same information available in accessible format including audio tapes, large type, Braille and computer disks. Descriptions of artwork should take into consideration the perspective of a person not able to see the artwork and should be available in accessible format. Where feasible, people who are blind or who have low vision should be allowed to touch artwork such as sculpture, even if latex gloves need to be provided.

Alternatively: A person could be assigned to read information and provide verbal descriptions. At a minimum, a notice could either be posted in Braille and large type or an audio notice provided, indicating a phone number to call to have the text information provided in an accessible format at a later date.

- Ideally: Any display should be approachable by persons using wheelchairs and be at a height viewable by persons using wheelchairs.

Alternatively: While the general area would have to be accessible, a video display could be set up to provide those views that would not otherwise be available from a wheelchair. or a notice could be posted stating that a video tape would be available

upon request and providing a phone number to call.

## **Attachment Two Service Animal Guidelines**

### **Definition**

The ADA defines a service animal as *any* guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

Service animals are not required to be licensed or certified.

Service animals perform some of the functions and tasks that the individual with a disability cannot perform for him or her self.

Some examples include: dog guides for people who are blind; animals that alert persons with hearing impairments to sounds; animals that pull wheelchairs, or carry or pick up things for persons with mobility impairments; animals that assist persons with mobility impairments with balance.

A service animal is *not* a pet.

### **Identifying a service animal**

In most cases, service animals will be well trained and well behaved. The definition of service animal, however, is very broad. Some people who know the law will take advantage of it in an attempt to bring their family pet into a Miami-Dade County facility that otherwise does not allow pets. If there is doubt whether an animal is, in fact, a service animal, it is permissible to ask the person who has the animal if it is a service animal required because of a disability. It is not permissible to ask the individual to identify his or her disability. It is permissible, but not advisable to ask what service tasks the animal performs. This is inadvisable to ask because the ADA does not define qualified or unqualified tasks, nor does it include any provision to deny access to a service animal because the task it performs will not need to be performed at that location. Because there is no standardized certification for service animals, a person's claim that an animal is a service animal must be assumed to be truthful. As long as the animals are well controlled, it is better to let a few pets through than to risk a lawsuit by denying access to a person who may have a valid need for a service animal. However, if it is felt that an individual is trying to take advantage of the service animal rule to bring an unqualified animal into a County facility, and that some significant harm may come from that act, a supervisor, the departmental ADA Coordinator, or the Office of ADA Coordination should be contacted.

### **Admittance of service animals**

The service animal must be permitted to accompany the individual with a disability to all areas of the facility where customers are normally allowed to go. An individual with a service animal may not be segregated from other customers.

### **No pets” policies**

A service animal is *not* a pet. County facilities may have “no pets” policies, but service animals are not subject to policies regarding pets.

### **Health department regulations**

Service animals of any type may not be refused admittance on the basis of local health department regulations or other state or local laws. As a federal law, the ADA takes priority over local or state laws or regulations.

### **Responsibility**

Except where the County has responsibility for the owner of a service animal, the care or supervision of a service animal is solely the responsibility of his or her owner and the County is not required to provide care, food, or a special location for the animal. However, building managers and security personnel shall be able to direct the owner of a service animal to a nearby place where the animal can relieve itself. While there are no clear guidelines for situations where the County has responsibility for the owner of a service animal, such as emergency care, arrest, incarceration, etc. Employees need to be aware that service animals may be essential to the independent function of their owners and are often very valuable monetarily as well. Departments need to work with the Office of ADA Coordination to develop policies to meet specific circumstances.

### **Maintenance and cleaning fees**

Neither a deposit nor a surcharge may be imposed on an individual with a disability as a condition to allowing a service animal to accompany the individual with a disability, even if deposits are routinely required for pets. However, the owner of the service animal is responsible for its actions and may be charged if a service animal causes damage so long as it is the regular practice of the entity to charge non-disabled customers for the same types of damages, such as damage done by a child.

### **Service animals in vehicles**

The same requirements relating to service animals apply to vehicles such as taxis and busses. No extra fee can be charged for the space needed by the service animal.

## **Exceptions**

***County employees shall recognize the right of persons with disabilities to be accompanied by service animals unless there is direct evidence that:***

- *The animal is not being adequately controlled by the person with a disability.* Evidence of this would include the animal's leaving the side of the person with a disability for reasons other than to perform tasks. It would be appropriate to warn the individual that the animal must be kept under control at all times while in the facility.
- *The animal poses a threat to other persons:* Evidence of this would include the animal barking, growling, or making threatening gestures or approaches toward other persons or generally acting vicious whether or not directed at another person. Normal defensive or protective actions, such as barking or growling, on the part of the animal in response to improper actions on the part of other persons should not be considered threatening behavior. It would be appropriate to warn the individual that the animal must not threaten other people in the building.
- *The animal, through its actions, is being disruptive to the proceedings.* Evidence of this would include the animal barking or making other disruptive sounds, the animal moving about, other than to perform tasks, with such frequency or energy as to cause a significant distraction to others, the animal approaching other persons to the extent of causing a significant distraction. It would be appropriate to warn the individual that the animal must not disrupt the proceedings.

## **Security**

If employees find it is necessary to guide an animal through or around a metal detector, etc., they should not approach or touch the animal without consulting with the owner. Also, they should not approach or touch the owner of the animal, or any person with a disability, without first consulting him or her.

## **Attachment Three**

### **MIAMI-DADE GRIEVANCE PROCESS AMERICANS WITH DISABILITIES ACT OF 1990**

## **Creation**

This grievance procedure shall serve as the County's mechanism to respond to complaints of discrimination on the basis of a disability in County programs

and services under the Americans with Disabilities Act of 1990 (ADA). This procedure shall not apply to complaints of discrimination in employment. Employment discrimination complaints are handled by the Affirmative Action Office.

### **Opportunity for Complaint**

Any individual who feels that they have been discriminated against in the provision of a program or service operated by Miami-Dade County shall have the ability to file a formal grievance, have the grievance responded to, and have the right to request an appeal if they are dissatisfied with the resolution of their grievance. The procedures to be followed in filing a formal grievance shall be available and accessible to the general public.

### **Coordination of Procedure**

The Miami-Dade County Office of ADA Coordination, 111 N.W. 1st Street, 12th Floor #348, shall be the agency responsible for coordinating the County's grievance procedure and will serve as the conduit between the grievant and the department against whom the complaint is made. The Office will provide the department with the necessary technical assistance needed in reaching resolution of the complaint. The Office will make all attempts to assist the department in reaching an amicable resolution to the complaint; however, the office of ADA Coordination shall have no authority to direct the department in the manner in which the department ultimately decides to respond to the complaint.

Employment discrimination complains should be sent to the Office of Fair Employment Practices, 111 N.W. 1<sup>st</sup> Street, Suite 2720.

### **Filing a Complaint**

Any individual who feels they have been discriminated against in any program or service provided by Miami-Dade County, under provisions of the ADA, shall submit a complaint, in writing to the Office of ADA Coordination. This written complaint shall contain the following information:

1. Name, address and telephone number (if available) of the grievant.
2. The date of the occurrence.
3. The name and location of the County program and service involved in the alleged occurrence.

4. The name (if known) of the County employee with whom the grievant came in contact, if appropriate.
5. Why the individual thinks that he has been discriminated against on the basis of a disability.

### **Complaint Resolution**

Within five (5) days of receipt of the complaint, the Office of ADA Coordination shall:

1. Inform the department of the complaint; transmit a copy of the complaint to the department with general instructions as to the format which the department should follow in their response, and a date by which the department shall return a response to the Office. The Office of ADA Coordination will review the decisions with the department before final preparation of the response.
2. The department shall have thirty (30) days from receipt of complaint from the Office of ADA Coordination to respond to the complainant. Attempts will be made by the department to clarify the facts of the grievance. The actions taken by the department shall be conveyed to the grievant in writing. This letter, addressed to the grievant and signed by the Department, shall be transmitted to the Office of ADA Coordination within the specified time period. The response shall be mailed to the grievant by the Office of ADA Coordination with a cover letter informing the grievant of their ability to appeal the decision enclosed and the procedure which the grievant must follow in requesting an appeal. In no instance shall the Department mail their response directly to the grievant.
3. In the event that a complainant submits a written complaint to the operating department, the department shall send a copy of the complaint to the Office of ADA Coordination within five (5) days. That action will constitute a filing by the complainant with the Office of ADA Coordination as required in Section IV of this document. The Department will have thirty (30) days from receipt of written complaint to respond to complainant.
4. Where a department can solve a written complaint informally, the department will provide the Office of ADA Coordination a written statement explaining the mutually agreeable solution. It should be signed by the complainant and the department representative.

All reasonable attempts should be made by the department with the assistance of the Office of ADA Coordination to mediate and resolve the grievance.

### **Filing an Appeal**

Any individual who is dissatisfied with the recommended resolution of their complaint may request an appeal. In requesting an appeal the individual shall, within fifteen (15) days from the date of the written recommended resolution offered by the County, submit in writing to the Office of ADA Coordination their request to appeal the decision and express their willingness to appear before an impartial panel to present their grievance.

### **Appeal Process**

Upon receipt of a written request for an appeal, the Office of ADA Coordination shall:

1. Notify the County Manager and request that within thirty (30) days he appoint a panel of three (3) senior members of unaffected County departments to hear the complaint. The Manager shall designate one of the three panel members to serve as chairperson.
2. Set a time and place for the hearing that is convenient to the grievant, the affected department and the panel members, within twenty (20) days after the panel is appointed, if possible.
3. Instruct the department, against whom the complaint has been made, to prepare a package with all necessary information pertinent to the complaint for each panel member to review prior to hearing.
4. Monitor and tape the hearing.

At the time of the hearing both the grievant and the affected department shall have the opportunity to present their positions to the panel. The panel members will also have the opportunity to pose questions to both parties. After the affected parties have presented the facts, and after all questions posed by the panel have been answered the hearing shall be closed and the panel shall meet privately to deliberate.

Within fourteen (14) days from the date of the hearing the panel shall issue its decision. The Chairperson shall prepare the decision of the panel. The Chairperson shall send the written decision to each panel member for review and signature prior to its submission to the affected parties. The decision of the panel is final and no further appeal shall be available within the administrative branch of County government.

### **Recordkeeping**

The Office of ADA Coordination shall maintain files on complaints received along with all communications, recommendations, and other records pertinent

to the complaints for a period of at least three (3) years.

**Alternative Remedies**

The establishment of this grievance procedure shall not preclude nor waive the grievant's right to seek redress under any alternative remedy available.